

REMARKS

Claims 1-27 were pending prior to this amendment. Claims 1-27 stand rejected. Claims 1-27 have been amended. New claims 28-31 have been added. At least in light of the above amendments and the foregoing remarks, reconsideration and allowance of the claims is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-4, 7-14, 17-21 and 24 have been rejected under 35 U.S.C. § 103(a) on the basis of being unpatentable over U.S. Patent Application Publication No. 2002/0072992 (Elms, et al.) in view of U.S. Patent No. 6,438,599 (Chack).

Claim 1 has been amended. Applicant claims formatting a B2B exchange that represents an electronic marketplace according to predetermined purchasing or selling criteria for the different participants. *See* the present specification page 11, lines 1-6. The B2B exchange is then analyzed to match a first buying party identified in the B2B exchange with a second selling party identified in the B2B exchange according to the predetermined criteria. *See* the present specification page 3, lines 14-16 and page 9, lines 1-15. Responsive to the matching, a web-based collaboration session is established between the first buying party and the second selling party. *See* the present specification page 10, lines 11-16. Neither of the references disclose at least the feature of analyzing the B2B exchange to match a first buying party identified in the B2B exchange with a second selling party identified in the B2B exchange according to the predetermined criteria.

With respect to Elms, Applicant notes that at least portions of Elms are not prior art because the present application was filed on April 20, 2001; before the filing date of Elms. Only those portions of Elms that are supported by the provisional application 60/234,080 (provisional application) have priority over the present application. *See* MPEP 2136.02, paragraph III. Due to the apparent difference in scope between Elms and the provisional application (for example Elms includes fourteen (14) pages of disclosure while the provisional application supporting Elms includes only four (4) pages of disclosure), it would be helpful towards crystallizing any remaining issues if any future Office Actions relying on Elms cite both Elms and the provisional application.

Referring now to the provisional application, there is disclosed a web server that allows a web user and a website administrator to exchange a volley of communications between each other using “web forms”. *See* page 2, paragraph 04 of the provisional application. Behind the scenes, the web server then makes numerous associations in a Myprojects data structure based on content of the volley of communications. *See* page 2, paragraph 05. The associations made in the Myprojects data structure are then used to expedite future requests web form requests from other web users. Even if the Myprojects data were a B2B exchange (which it is not), the Myprojects data does not indicate predetermined buying or selling criteria and is not used to match the web user to the web administrator.

Chack discloses a transaction processing system 14 that determines whether a call initiated from a telephone 10 includes a request for identification of a URL. *See* FIGS. 1, 2 and Col. 5, lines 36-55. When identification of the URL is requested, the transaction processing system 14 sends back a message identifying the URL that is eventually provided to the computer 22. *See* FIG. 2. There is no disclosure of the B2B exchange, nor is the user of the telephone 10 matched to a buyer or seller according to predetermined buying or selling criteria of the user and the buyer or seller.

In contrast, claim 1 includes the feature of analyzing the B2B exchange to match a first buying party identified in the B2B exchange with a second selling party identified in the B2B exchange according to the predetermined criteria. *See* the present specification, page 3, lines 14-16. This feature resolves the issue of limited liquidity in a B2B exchange. *See* page 9, lines 17-20. Thus, claim 1 should be allowed. Claims 2-4, 7 and 10 are dependent and should be allowed for at least similar reasons.

Claim 9 has been put into independent form. No amendments have been made to claim 9. Neither Elms nor Chack teach at least the feature of using instant messaging to locate a first party and a second party for conducting a transaction.

As explained with respect to claim 1, only those portions of Elms that are supported by the provisional application are even capable of being prior art because Elms was filed after the present application. The paragraph 0070 of Elms that is cited in the Office Action for rejecting claim 9 does not disclose using instant messages to locate transactional parties, and even if it did (which it does not), it is not supported by the provisional application and therefore is not prior art.

Referring now to the provisional application, the provisional application discloses a web server that allows a web user and a website administrator to B2B exchange a volley of communications between each other using “web forms”. *See* page 2, paragraph 04 of the provisional application. Behind the scenes, the web server then makes numerous associations in a Myprojects data structure based on content of the volley of communications. *See* page 2, paragraph 05. The associations made in the Myprojects data structure are then used to expedite future requests web form requests from other web users. *See* page 2, paragraph 06. Submission of the “web forms” is not instant messaging. Even if submission of the “web forms” were instant messaging (which it is not), the web forms are still not used for locating transactional parties.

Chack discloses a transaction processing system 14 that determines whether a call initiated from a telephone 10 includes a request for identification of a URL. *See* FIGS. 1, 2 and Col. 5, lines 36-55. When identification of the URL is requested, the transaction processing system 14 sends back a message identifying the URL that is eventually provided to the computer 22. *See* FIG. 2. The Office Action did not allege that Chack discloses the feature of using instant messaging to locate a first party and a second party for conducting a transaction; however, in the interest of furthering prosecution Applicant notes that none of the transaction processing system 14, the telephone 10, the computer 22, nor users of these devices are located using instant messaging.

Walker was not used in the rejection of claim 9; however, in the interest of furthering prosecution Applicant notes that in Walker does not disclose using instant messaging for locating a first party and a second party for conducting a transaction. In any event, if Walker is used in a new rejection of claim 9, Applicant needs an opportunity to respond to such a new rejection. *See* MPEP 706.07(a), second paragraph.

In contrast, claim 9 includes the feature of using instant messaging to locate a first party and a second party for conducting a transaction and numerous other features. This allows a third party to easily match buyers and sellers together in an ecommerce marketplace. *See* the page 5 of the present application. Thus, claim 9 should be allowed. Claims 12-14, 17-21 and 24 should be allowed for at least similar reasons as claim 1.

Claims 5-6, 15-16, 22-23 and 25-27 have been rejected under 35 U.S.C. § 103(a) on the basis of Elms, Chack and further in view of U.S. Patent Application Publication No. 2002/0169626 (Walker, et al.).

Claims 5-6, 15-16, 22-23 and 25-27 are dependent and should be allowed for at least the same reasons as their respective base claims.

New Claims

New claims 28 and 29 have been added. *See* page 11, lines 1-6.


New claims 30 and 31 have been added. Support may be found in the present application page 10, lines 4-6 via incorporation by reference of U.S. Patent Application 09/727,841 (FIG. 3, paragraphs 28-30, 35, 39-40 and 48.)

CONCLUSION

For the foregoing reasons, reconsideration and allowance of all pending claims is requested. The Examiner is encouraged to telephone the undersigned at 503-222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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